REMARKS

Applicant hereby requests further consideration of the application in view of the amendments above and the comments that follow. This response is submitted in reply to the Office Action mailed August 8, 2006 ("the Action"). Claims 1-37 and 39-50 are pending but stand rejected based on new grounds as being obvious over a combination of three or more prior art references. Applicant respectfully disagrees as will be discussed further below.

I. The § 112, First Paragraph Rejection

The Action alleges that Claims 9, 12, 15-37, 39-42 and 45-47 fail to comply with the written description requirement because the subject matter is alleged to not be described in the specification as to reasonable convey to one skilled in the art that the inventor was in possession of the claimed invention at the time the application was filed. More particularly, the Action alleges that the specification does not provide written support for the ability to receive and make telephone calls and download data while the device is in a screensaver or lock mode. Applicant respectfully disagrees.

Page 8, lines 5-7, of the instant specification states that the first display can electronically block access to the second display while the second display carries text and visual data thereon to inhibit unauthorized use of the device. Applicant submits that it is clear that the text and/or visual data on the second display can be associated with downloading data and/or phone calls. Thus, we believe that this text provides sufficient written description to support that the second display can operate as claimed. Further, that there is no requirement for *ipsis verbis* support. However, in order to advance prosecution, Claims 9, 15, 29, 39, 40 and 47 have been amended in a non-narrowing manner to obviate these rejections. Accordingly, Applicant respectfully requests that these rejections be withdrawn.

II. The Claim Informality

Applicant has amended Claim 49 to recite "first display" rather than "upper display" in accordance with the antecedent basis. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

III. The Obviousness Rejections

A. Claims 1-4, 7-8, 10, 13, 43-44, 48 and 50

The Action rejects Claims 1-4, 7-8, 10, 13, 43-44, 48 and 50 as being obvious over US2004/0239582 to Seymour ("Seymour") in view of US 2005/0062410 to Bell et al. ("Bell") and now in further view of a third (newly applied) reference, namely, US 2003/0185494 to Ellenby ("Ellenby"). Applicant respectfully disagrees.

The Action concedes that Seymour and Bell, even combined in the manner alleged by the Action, fail to teach electronically selecting a feature, text or indicia using the first display within content of an application on the second display to navigate. However, the Action then cites Ellenby for selection and navigation features and alleges that it would have been obvious to one of skill in the art to use the adjacent display navigational features of Ellenby with the combination of Seymour and Bell. Again, Applicant respectfully disagrees.

Addressing Ellenby first, Applicant submits that, notably, Ellenby uses two display regions **2, 3 on the same focal plane** (one above the other) for interfacing with remote addressing systems. The Action alleges that one of skill in the art would have found it obvious to select and navigate a map as taught by Ellenby in the Action's combination of Seymour and Bell "to maintain a small size while retaining the ability for the user to interact between the first and second display." However, the device of Ellenby is already a small size and the navigation is between two adjacent displays of similar size. If anything, one of skill in the art would have modified the Action's alleged combination to use Ellenby's display configuration, as the Ellenby configuration provides a clear view of data using the same focal plane, thereby providing a clear view and a small size.

Further, embodiments of the invention allow the two stacked displays to interact to navigate other types of content (not just addressing or maps/directions), such as text, toolbars, desktop icons, and to provide other non-navigational content and/or to generate 3-D visualizations (*see, e.g.*, Claims 51-56) including, for example, emails, messages, incoming or outgoing data, books with related images, newscasts, videos, and other data signals, not just map/geographic location content.

Applicant submits that if the three different references were somehow properly combinable (which Applicant believes they are not), the three references would yield three displays, a pair of stacked displays with an adjacent third, potentially smaller, display on the same focal plane as the top display of the stacked system with the additional third display navigating content on the upper display of the stacked system. As such, the combination would still not yield the claimed invention.

Applicant again submits that one of skill in the art would not combine Seymour with the PDA of Bell. Seymour proposes a relatively large multi-focal plane information display with two spaced apart non-enclosed vertical displays that present predefined presentations to improve memory/retention/recall. Seymour is directed to enhancing information that a user can extract from displays for memory retention, etc. (*see,* ¶ 17) based on a premise of how humans process visual information (¶ 18).

In contrast, Bell is directed to PDA devices. Bell does propose a PDA with two screens. Bell is primarily directed to ways to illuminate screens with "at least partially emissive layer" **21** between first and second display screens **10, 20**, respectively (Abstract). Bell also notes battery power consumption issues (¶¶ 19, 89) and heating concerns (¶ 0144) when using two displays with a PDA as well as a loss in display brightness (¶ 0019). Applicant submits that these concerns would seem to be exacerbated by the operational configuration and modes of the stacked displays described by the instant invention, again supporting the position that one of skill in the art would not have combined these references in the manner alleged by the Action.

The Action alleges that one of skill in the art would have combined the method of presenting text and visual data to two overlapping displays as taught by Seymour with the

multi-layer PDA of Bell in order to "provide an enlarged display area of PDA type devices without a detrimental loss in display brightness" (Action, p. 4). However, the claimed combination may occlude visibility of at least some portions of the two displays, as the overlapping displays may be more cluttered and/or may impede display brightness from the underneath display, because the top display is active as well as the bottom display and because the top display resides above the bottom one with a different visual presentation of information.

Applicant strongly reiterates that one of skill in the art would not have been motivated to combine Bell with the teachings of Seymour. Seymour proposes a very different apparatus, that includes, for example, non-enclosed significantly spaced apart vertical/upright display arrangement of the two displays, with each display open to the environment and where heating is likely, at most, a minor issue and in a device with substantially no common operative functions. Such non-common operative functions include, *e.g.*, telephone communication, downloading, streaming, "on" time for relatively long periods of use, with associated power consumption (which can be particularly problematic in handheld or small portable devices) and heat issues attendant to enclosed displays and operational components.

Applicant has added new independent Claim 57.

> 57. A handheld wireless terminal portable communications device having telephone capacity, comprising:
>
> a hand-held housing configured to enclose a transceiver that transmits and receives wireless communications signals;
>
> a first display in communication with the transceiver and held in the housing so that a corresponding first viewing surface is externally viewable; and
>
> a second display in communication with the transceiver and held in the housing beneath the first display so that a corresponding second viewing surface is externally viewable,
>
> wherein the second display is configured to present an operating interface desktop with user selectable menu items,
>
> wherein the first and second displays are configured to interactively communicate, and
>
> wherein the device is configured to concurrently present different visual presentations of text, graphic and/or pictorial data on the first and second displays so as to be externally viewable by a user.

Applicant again submits that one of skill in the art would NOT have combined Seymour with Bell as alleged and that new Claim 57 is patentable over the art of record for at least the elements emphasized above.

Further, even the Action concedes that, with respect to pending Claim 1, the alleged combination of Bell and Seymour fails to teach or suggest the claimed operational features of, *inter alia*, navigation of content.

Bell notes that space constraints have led to the incorporation of touch screens as a means of combining both data entry and data display (¶ 4). The Action states that Bell states that text and/or visual data can be presented, citing ¶ 101. However, this paragraph states that "[r]estricting the light emission in this manner ensures regions of text or graphics on the rearward screen (10) do not align directly with light emitted directly from the emissive display (21) through the front display (20) to a viewer with a corresponding reduction in contrast and graying/fading of tones." Thus, Bell proposes arranging the light emission for displaying text or graphics on the rear display. Applicant was unable to find discussion of active display of data on the upper display concurrently with the lower display nor of interactive operation, and the like.

Claim 1 is restated here for ease of discussion.

> 1. A method for providing text and/or visual data to a display system of a portable communications device, comprising:
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> presenting text and/or visual data on a first display;
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> presenting a different visual presentation of text and/or visual data substantially concurrently on a second display underlying the first display, such that the second display is a further distance away from an eye of a user than the first display, wherein, in operation, a user is able to view data on the first and/or second display, and wherein one of the first and second displays is configured to present an operating interface desktop with user selectable menu items, and
>
> electronically selecting a feature, text or indicia using the first display within
>
> content of an application on the second display to navigate.

Applicant respectfully submits that, even combined, the cited references fail to teach or suggest at least the emphasized features in Claim 1 and submits that Claim 1 is patentable over the cited prior art.

The dependent claims are also patentable over the alleged three-way combination. Regarding Claim 3, the Action states that the proposed combination of the three references "disclose a method" according to Claim 1. Then the Action goes on to conclude that, given the combination of the references used to define the [fictional] device, such a device would be capable of receiving incoming data to display on the two screens. With respect to Claim 10, the Action alleges that the combination of references would also be able to receive incoming data that would display on the first and second screens. Applicant respectfully disagrees. Even if the alleged combination could receive incoming messages, there is NO teaching or suggestion in the combination of references to parse or split message data so as to display on both displays with different visual presentations of the data.

Thus, even if combined, the references do not teach or suggest parsing incoming data from a computer network to display data on both of the stacked screens. The references read in their entirety do not teach such a feature. Rather, it is only the teachings of the instant application that provides the motivation and the claimed operational features. Seymour clearly does not. Rather, Seymour describes an open display configuration for memory aid/recall/speed using a target presentation for same. Seymour also fails to disclose dynamic messaging or communicating using computer networks that transmit messages, media updates and the like. Bell only proposes a PDA with no discussion of active display of data on both displays. Ellenby uses two adjacent displays for map navigation. None of the references teach or suggest displaying portions of incoming message data on both displays or parsing incoming data transmitted using a computer network onto the two-stacked displays.

Claim 3 recites wherein the first and second displays are linked to simultaneously display related incoming communication data transmitted using a computer network (*see, e.g.*, p. 9, p. 14), such as, for example, forwarding media updates, emails, video clips and the like.

Claim 10 recites that the steps of presenting visual and/or text data on the first and

second displays comprises presenting text on the first display while presenting an image related to the text on the second display and wherein the visual and textual data comprises incoming or outgoing communication data transmitted using a computer network.

Claim 51 recites electronically selecting a feature, text or indicia using the first display within non-map content of an application on the second display.

Claim 52 recites electronically selecting a feature, text or indicia using the first display, which is configured to allow a user to electronically carry out at least one of the following: emphasize, edit, save, send or write to, content of the application on the second display.

Claim 53 recites electronically selecting to allow a user to select to electronically emphasize, edit, save, send and write to content of the application on the second display.

Claim 54 recites that data on the first and second displays cooperate to provide a feature with a three-dimensional visual appearance. (p. 5, lines 30-33 and p. 7, lines 23-27)

Claim 55 recites that the first display is configured to present text messages while the second display presents the desktop menu of icons (p. 8, lines 28-32).

Claim 56 recites that the first and second displays cooperate to display an incoming multimedia content service message from a media service provider using a computer network (p.2).

Applicant respectfully submits that even combined, the references fail to teach or suggest the emphasized features.

With respect to Claim 44, the Action concedes that no mention of a color display is made in the cited references, but alleges that because monochromatic and color displays are well known that it would be obvious to use a monochromatic display over a color display. Applicant disagrees. It is the claimed novel combination of color with monochromatic in a stacked display configuration that is patentable, not the fact that the separate displays exist. It is using the two different displays together that is claimed and that is the proper focus of patentability. Applicant submits that Claim 44 (and Claims 17 and 46) are patentable.

B. Claims 5-6, 11 and 49

The Action rejects Claims 5-6, 11 and 49 as being obvious over Seymour in view of Bell and further in view of U.S. 2002/0151283 to Pallakoff ("Pallakoff") (also a newly cited reference). Applicant respectfully disagrees.

More particularly, the Action states at page 13 that Pallakoff discloses generating a MMS message with text and visual data and parsing the message data to the first display and visual data to the second display (citing Figure 6 and para. 64-65). However, these paragraphs describe an icon or other visual cue on the direct display that illustrate when there is new content on the microdisplay. A user receives an instant message on the direct view display 600 while a web page can be downloaded and viewed on the microdisplay 604.

With respect to Claim 11, the Action also states at page 15 that Pallakoff illustrates two displays 500, 501. The first display shows a webpage with a map and the second is able to show a subset of what is shown on display 500.

Notably, however, Pallakoff proposes two adjacent displays: one a direct view display of normal size; and the other a **microdisplay** with magnifying optical elements for viewing larger higher resolution images when placed closer to the eye (Abstract). Applicant respectfully submits that Pallakoff teaches away from the use of two overlying stacked displays. Further, properly combined, the display arrangement of Bell and Seymour would incorporate a microdisplay positioned alongside the PDA displays with magnifying elements, rather than the reverse.

The Action alleges that one of skill in the art would have modified the fictional device formed by the combination of Seymour and Bell with Pallakoff "in order to allow the user to create messages that enhance the viewing experience of its recipients." The Action, page 14. However, this alleged motivation is a conclusory statement without support. Further, the alleged unsupported motivation would appear to be subjective as to what a user may find "enhances the viewing experience". The use of a microdisplay with a normal display or the use of two displays on the same plane may just as well meet this alleged motivation. In addition, the "viewing experience" of the alleged combination of Seymour and Bell would

appear to have been satisfactory. It appears that the motivation to combine this reference is to extract one isolated feature not found in the two primary references; thus, the motivation is improper as it is used to rationalize the combination based on the teachings of the instant invention.

With respect to Claim 11, the Action concedes that Seymour and Bell fail to teach presenting text on the first display and a map of geographic location on the second but opines that Pallakoff does this with its microdisplay and the normal view display and concludes that one of skill in the art would have modified the micro-display/normal display arrangement in a stacked display "to have a greater comprehension of the directions by simultaneously viewing the map." The Action, page 16. However, the display arrangement of Pallakoff can be viewed simultaneously and there is no need to alter this configuration to obtain the alleged "greater comprehension." Further, at para. 61, Pallakoff describes displaying a web page on the microdisplay and a portion of the same web page, which can include text/address from that same web page enlarged on the normal display. Even combined, there is no teaching or suggestion of providing textual map directions overlying a graphic geographical map.

IV. Hindsight

The Action appears to employ hindsight reasoning to conclude that the claimed subject matter of the present invention is obvious. The fact that the invention employs known elements does not preclude patentability. It is the claimed combination of elements which is the proper basis for review. "Virtually all inventions are necessarily combinations of old elements." *Panduit* at 1575 (citing *Medtronic, Inc. v. Cardiac Pacemakers, Inc.*, 220 USPQ 97, 99-100 (Fed. Cir. 1983)). Indeed, the Federal Circuit has stated (in regard to an obviousness-type invalidity challenge to an issued patent) that "[t]he notion, therefore, that combination claims can be declared invalid merely upon finding similar elements in separate prior patents would necessarily destroy virtually all patents and cannot be the law under the statute, §103." *Panduit* at 1575 (emphasis added).

As affirmed by the Court of Appeals for the Federal Circuit, to support combining references in a §103 rejection, evidence of a suggestion, teaching, or motivation to combine

must be clear and particular, and this requirement is not met by merely offering broad, conclusory statements about teachings of references. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Further, "[i]t is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, to combine the elements." *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997) (emphasis added). The standard of obviousness is not whether, in hindsight, someone would have combined elements to form the invention. *W.L. Gore & Associates v. Garlock, Inc.*, 220 USPQ 303, 312-313 (Fed. Cir. 1983). Further, simplicity alone cannot be determinative of obviousness. *Gentry Gallery, Inc. v. Berkline Corp.*, 45 USPQ2d 1498 (Fed. Cir. 1998).

Applicant respectfully submits that one of skill in the art would not have been motivated to combine the teachings of Seymour with those of Bell (and indeed the tertiary references) in a manner that would render the claimed invention obvious absent the teachings of the instant invention. Seymour uses two vertical stationary displays that are not enclosed and that are open to the environment. On the other hand, Bell is directed to a small portable PDA device. Thus, the system of Seymour and the PDA of Bell are very different devices with distinctly different operability and features. One of skill in the art would not have been motivated to combine the vertical open display configuration of Seymour with the small screens of a portable communication device such as that proposed by Bell. Indeed, each of the tertiary references, Ellenby and Pallakoff, employs adjacent small screens in the same focal plane on small handheld devices. There would have been no motivation to modify the display configurations with that of an alleged combination of Seymour and Bell absent the teachings of the instant invention. In addition, the alleged "motivations" or reasons given for combining the separate elements in the different prior art documents are advantages found in the teachings of the instant invention or made ignoring the overall teachings of the respective reference.

In summary, Applicant respectfully submits that some of the improper motivations to combine select features of the cited prior art documents include:

(a) to combine the teachings of Seymour with those of Bell in order to provide an enlarged display area of a PDA type device without a detrimental loss in display brightness while improving the visual experience of the user. The Action, pages 6, 13, 15.

(b) to combine the navigation of Ellenby (using the small handheld device with adjacent displays) with the combination in (a) to allow for the device to maintain a small size while retaining the ability for the user to interact between the first and second display. The Action, page 6.

(c) to modify Seymour and Bell with Pallakoff (having adjacent micro and normal displays) in order to allow the user to create messages that enhance the viewing experience of its recipients. The Action, page 14.

(d) to modify the micro-display/normal display arrangement of Pallakoff to the claimed stacked display to have a greater comprehension of the directions by simultaneously viewing the map. The Action, page 16.

Applicant respectfully submits that the emphasized alleged motivations are subjective, conclusory and unsupported by and furthermore, or alternatively, are hindsight rationales for selecting discrete features from very different display configurations. Applicant respectfully submits that the claims are patentable over the cited prior art and requests that the rejections be withdrawn.

V. CONCLUSION

Accordingly, Applicant submits that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,

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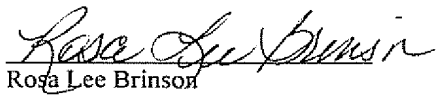

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